

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

MAVERICK MANUFACTURING, LLC,

Plaintiff,

v.

Case No. 05-C-1094

CONFIDENTIAL DATA SYSTEMS, INC.,

Defendant.

ORDER

Plaintiff in the above matter seeks entry of a judgment by default against the defendant. Although the defendant previously appeared and answered the original complaint, its attorney has since withdrawn and an amended complaint has been filed. Defendant failed to file a timely response to the amended complaint and thus the clerk has entered a default. Plaintiff now seeks judgment against the defendant for the amount requested in the complaint.

Under the Federal Rules of Civil Procedure 55(b)(1), a default can be entered without notice to the defendant where the defendant has failed to appear. Where, however, the defendant has appeared, as in this case, the rules provide that “the party (or if appearing by representative, the party’s representative) shall be served with written notice of the application for judgment at least three days prior to the hearing on such application.” Fed. R. Civ. P. 55(b)(2).

Based upon the foregoing, I conclude that defendant is entitled to notice of the application for a default judgment and an opportunity to appear. Accordingly, the clerk is instructed to set this matter for a hearing on the plaintiff’s motion for a default judgment. Plaintiffs must then serve

notice of the application for default and the date and time of the hearing at least three days prior to the scheduled hearing.

SO ORDERED this 11th day of May, 2006.

s/ William C. Griesbach

William C. Griesbach
United States District Judge